

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action dated November 22, 2005. This Reply encompasses a bona fide attempt to overcome the rejections raised by the Examiner and presents amendments as well as reasons why Applicant believes that the claimed invention, as amended, is novel and unobvious over the applied prior art. Accordingly, Applicant respectfully requests reconsideration and favorable action in this case.

Claim status

Claims 1-19 were presented for examination. Claims 1-18 were rejected. Claim 19 has been allowed. Applicant thanks the Examiner for the indication of allowable subject matter in claim 19. To expressly place the present application in a condition for allowance, claims 1-18 are cancelled herein. Claims 20-33 are newly added. Support for the amendment can be found in the Specification as originally disclosed, particularly in paragraphs [0036], [0037], [0057], [0060], and [0061]. No new matter is introduced. By this Amendment, claims 19-33 are pending.

Claim rejections under 35 U.S.C. § 101

Claims 1-9 were rejected under 35 U.S.C. § 101 as being directed to a non-statutory subject matter. Claims 1-9 are cancelled herein, rendering this rejection moot. Accordingly, withdrawal of this rejection is respectfully requested.

Claim rejections under 35 U.S.C. § 103

Claims 1-18 were rejected as being unpatentable over Thierauf (*Decision Making Through Operations Research*). Claims 1-18 are cancelled herein, rendering this rejection moot. Accordingly, withdrawal of this rejection is respectfully requested.

Newly added claims 20-33

The allowed claim 19 is directed to a computer-readable medium carrying computer-executable instructions for modeling an operating parameter for a store. Newly added independent claim 27 is directed to a computer system implementing the computer-executable instructions embodied in the computer-readable medium as set forth in claim 19. Claim 27 specifically recites the allowable subject matter of claim 19 and is therefore submitted to be similarly allowable over the prior art of record. Reliance is placed on *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) for the allowance of newly added dependent claims 20-26 and 28-33, since they differ in scope from base claim 19, which has been allowed, and claim 27, which is submitted to be allowable.

Conclusion

Applicant has now made an earnest attempt to place the present application in condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, favorable consideration and a Notice of Allowance of all pending claims 19-33 is earnestly solicited. The Examiner is invited to telephone the undersigned at the number listed below for discussing an Examiner's Amendment or any suggested actions for accelerating prosecution and moving the present application to allowance. The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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